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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/013,490	01/26/1998	ALEXANDER S. TUZHILIN	033053 - 475936-00049	3399
30873 7590 10/17/2008 DORSEY & WHITNEY LLP INTELLECTUAL PROPERTY DEPARTMENT 250 PARK AVENUE NEW YORK, NY 10177				
EXAMINER WINDER, PATRICE L				
ART UNIT		PAPER NUMBER		
2445				
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10/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/013,490

Applicant(s)

TUZHILIN ET AL.

Examiner

Patrice Winder

Art Unit

2445

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 89-107 and 136-154 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 89-107 and 136-154 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 28, 2008 has been entered.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claims as amended on July 28, 2008 appear to clarify that the claimed "processing arrangement" is hardware. .

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 89-96, 102-104, 106, 136-142, 148-150, 152, 154 are rejected under 35 U.S.C. 102(e) as being anticipated by Gable, USPN 6,029,165 (hereafter referred to as Gable).

5. Regarding claim 89, Gable taught a computer accessible medium including a plurality of executable instructions which, when executed on a first processing arrangement, configure the first processing arrangement to (abstract) to perform procedures comprising:

transmitting, over a network, a first executable instructions from the first processing arrangement to a second processing arrangement, and second executable instructions from the first processing arrangement to a third processing arrangement (column 7, lines 6-10, 20-25);

causing an execution of the first executable instructions by the second processing arrangement and the second executable instructions by the third processing arrangement, wherein the execution of (i) the first executable instructions cause the second processing arrangement to perform at least one first operation which is at least one of a first monitoring operation or a first search operation on or in the second processing arrangement (first location, column 7, lines 20-32), and

(ii) the second executable instructions cause the third processing arrangement to perform at least one second operation which is at least one of a second monitoring operation or second operation on or in the third processing arrangement (second location, column 7, lines 20-32).

6. Regarding claim 136, Gable taught a system for performing at least one of a monitoring operation or a search operation by performing procedures comprising: a first processing arrangement which is configured to (i) receive first executable instructions from a particular processing arrangement via a network (column 7, lines 6-10, 20-25), (ii) execute at least one of the first executable instructions to performs at least one first operation which is at least one of a first monitoring operation or a first search operation on or in the first processing arrangement (column 7, lines 20-32); and a second processing arrangement which is associated with and separate from the first processing arrangement, the second processing arrangement being configured to (i) receive second executable instructions from the particular processing arrangement via the network (column 7, lines 20-25), and (ii) execute at least one of the second executable instructions to performs at least one second operation which is at least one of a second monitoring operation or a second search operation on or in the second processing arrangement (column 7, lines 20-32).

7. Regarding claim 154, Gable taught a computer system to perform at least one of monitoring operations or search operations on a network accessible information, comprising:
at least one computer accessible medium including thereon at least one module, wherein, when a processing arrangement executes the at least one module, the processing arrangement is configured to:
(i) transmit first executable instructions from at least one first site provided on a network to at least one second site provided on the network, second executable instructions

from the at least one first site provided on a network to at least one third site provided on the network (column 7, lines 6-10, 20-25),

(ii) cause an execution of at least one of the first executable instructions on the at least one second site to perform at least one operation which is at least one of the monitoring operations or the search operations on or in the at least one second site on the network (column 7, lines 20-32), and

(iii) cause an execution of at least one of the second executable instructions on the at least one third site to perform at least one operation which is at least one of the monitoring operations or the search operations on or in the at least one third site on the network (column 7, lines 20-32).

8. Regarding dependent claim 90, Gable taught the second and third processing arrangements are provided within a network and receives the executable instructions from the first processing arrangement via the network (agents received at atlas locations, column 7, lines 6-10, 20-25). Regarding dependent claim 138, Gable taught the particular processing arrangement is provided within a network and transmits the executable instructions to the first and second processing arrangements via the network (agents sent to atlas locations, column 7, lines 6-10, 20-25).

9. Regarding dependent claims 91, Gable taught the second and third processing arrangements provides at least one portion of results of the at least one operation from the second processing arrangement to the first processing arrangement via the network (column 7, lines 25-29). Regarding dependent claim 137, Gable taught at least one of the first processing arrangement or the second processing arrangement is configured to

provide at least a portion of results of at least one of the respective first or second operations to the particular processing arrangement (column 7, lines 25-29).

10. Regarding dependent claims 92, 139, Gable taught the second and third processing arrangements each transmits at least a portion of respective results of the respective first or second monitoring operations over the network to at least one further processing arrangement (master search agent, column 7, lines 25-33).

11. Regarding dependent claims 93, 140, Gable taught the second and third processing arrangements each transmits at least a portion of respective results of the respective first or second monitoring operations over the network to the first processing arrangement provided on the network (delivery to users, column 7, lines 25-33).

12. Regarding dependent claims 94, Gable taught the network includes the Internet (column 1, lines 18-20) and a plurality of websites associated therewith (search locations include websites, column 6, lines 61-63).

13. Regarding dependent claims 95, 141, Gable taught the first, second and third (particular) processing arrangements are external to a network (system external to content sources, column).

14. Regarding dependent claims 96, 142, Gable taught the first and second operations are performed based on at least one predetermined criterion (column 7, lines 11-18).

15. Regarding dependent claims 102, 148, Gable taught each of the first and second executable instructions contain one or more executable modules which, when executed by respective second and third processing arrangements, configure the respective

second and third processing arrangements to perform respective first or second operations (column 7, lines 20-29).

16. Regarding dependent claims 103, 149, Gable taught the execution of the first and second executable instructions generates at least one agent running on each of the second processing arrangement and the third processing arrangements (column 7, lines 20-25).

17. Regarding dependent claims 104, 150, Gable taught the execution of the first and second executable instructions performs a further operation which performs the at least one operation on at least one further processing arrangement (indexing, column 7, lines 34-36).

18. Regarding dependent claims 106, 152, Gable taught the predetermined criteria is included, at least in part, as to be transmitted by the first processing arrangement to the second and third processing arrangements over the network (sending agents to atlas locations, column 7, lines 20-25).

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2445

20. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

21. Claims 97-101, 105, 143-147 and 151 rejected under 35 U.S.C. 103(a) as being unpatentable over Gable in view of Noble et al., USPN 5,978,842 (hereafter referred to as Noble).

22. Regarding dependent claims 97, 143, Gable does not specifically teach the first and second operations includes at least one temporal condition. However, Noble taught the first and second operations includes at least one temporal condition (column 5, lines 21-29). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Noble's temporal conditions in Gable's system for launching agents would have improved Noble's indexing. The motivation would have been to update the indexed documents when changes occur.

23. Regarding dependent claims 98, 144, Gable taught the second processing arrangement executes the first executable instructions to perform the first operation on the network to which second and third processing arrangements are connected (column 7, lines 20-25).

Noble taught the at least one predetermined criterion that includes the at least one temporal condition relates to a change in a content of information of at least one

node residing on the network, the change in the content being between a plurality of points in time (column 7, lines 7-13).

24. Regarding dependent claims 99, 145, Noble taught the change in the content is a change in the content of one or more web pages of at least one website provided on the network (column 11, lines 32-39).

25. Regarding dependent claims 100, 146, Noble taught the at least one predetermined criterion that includes that the at least one temporal condition is associated with a collection (column 7, lines 21-23) and a storage of first information at a first point in time and a comparison of the first information with a second information obtained at one or more second points in time (column 7, lines 21-25, 39-46).

26. Regarding dependent claims 101, 147, Gable does not specifically teach the at least one predetermined criterion includes an indication of at least one relationship between content of a plurality of sites. However, Noble taught the at least one predetermined criterion includes an indication of at least one relationship between content of a plurality of sites on a network to which the second and third processing arrangements are connected (column 13, lines 36-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Noble's relationship in Gable's system for sending agents would have improved the indexing. The motivation would have been to find additional and modified documents as quickly as possible.

27. Regarding dependent claims 105, 151, Gable does not specifically teach the at least one operation monitors for at least one of: (a) appearance or disappearance of

one or more links, (b) appearance or disappearance of one or more keywords on a page. However, Noble taught the at least one operation monitors for at least one of: (a) appearance or disappearance of one or more links, (b) appearance or disappearance of one or more keywords on a page (column 5, lines 15-20; column 13, lines 26-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Noble's monitoring appearance and disappearance in Gable's system for sending agents would have improved the indexing. The motivation would have been to make sure the indexing is current.

28. Claims 107 and 153 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gable in view of Chow et al., USPN 6,029,175 (hereafter referred to as Chow)

29. Regarding dependent claims 107, 153, Gable does not specifically teach retransmitting executable instructions. However, Chow taught the first and second executable instructions are retransmitted from the first processing arrangement to the respective second and third processing arrangements (column 26, lines 40-48) if the respective first and second operations terminate prior to a completion of tasks associated with the respective first and second operations (termination prior to completion of task = Revision Manager failure, column 22, lines 65-67; column 23, lines 1-3). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Chow's retransmitting executable instruction in Gable's system for sending agents would have improved robustness. The motivation would have been to ensure that any searches include the results from all the agents dispatched.

Response to Amendment

30. The affidavit filed on July 28, 2008 under 37 CFR 1.131 has been considered but is ineffective to overcome the Gable reference.

31. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Gable reference to either a constructive reduction to practice or an actual reduction to practice. The affidavit lacks facts that support that diligence was used from the point of constructive reduction to practice or an actual reduction to practice. None of the facts provided address the "diligence" between the critical date of November 12, 1997 and the date of the filing of the present application.

Conclusion

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 571-272-3935. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrice Winder/
Primary Examiner, Art Unit 2445

October 13, 2008